IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 179 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BHIMJIBHAI DALABHAI

Versus

STATE GOVT.OF GUJARAT

Appearance:

1. Special Civil Application No. 179 of 1989

MR MEHUL SHAH WITH MR.SURESH M SHAH for Petitioner No. 1

MR MEHUL S SHAH for Petitioner No. 1

GOVERNMENT PLEADER for Respondents No. 1-3

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 25/10/2001

ORAL JUDGEMENT

1 The petitioners 97 in number are serving in the Armed Police Constabulary of the State Government. They challenged the circular dated 1/8/1988 issued by

respondent No.2, imposing ban on transfer of Constables from Armed Branch to Unarmed Branch. However, in light of submission made by Mr.Mehul S.Shah, Advocate for the petitioners, it is not necessary to resolve the said controversy at this juncture. It has been submitted that out of 97 petitioners, the following seven petitioners namely;

1 Arvind Mohanbhai.
2 Arjanbhai Nagabhai.
3 Kanubhai Jivabhai.
4 Umer Manubhai.
5 Laxman Visabhai.
6 Shantilal Kalidas.
7 Husen Ishakbhai
have already been absorbed in the Unarmed Branch and hence, so far as these seven petitioners are concerned no grievance survives. That in relation to the remaining 90 petitioners they shall make application for being recruited to the Unarmed Branch and it is submitted that they do not desire to claim seniority on the basis of service in Armed Branch but only seek continuity of service.

2 Having heard Mr.Mehul Shah, learned Advocate for the petitioner and Mr.U.R.Bhatt, learned Assistant Government Pleader, it is directed that (1) the respondents shall take into consideration the application made by the petitioners and consider them favourably for appointment in the Unarmed Police Constabulary as and when a vacancy arises; (2) as and when such appointment is made continuity of service shall not be disturbed but the service shall be treated as one without break and the petitioner shall not be entitled to claim seniority in the Unarmed Branch with reference to their period of service in the Armed Branch; (3) The respondents shall not reject the application of the petitioners on the ground of petitioners having become ineligible because of the age factor in view of the relevant rules of service. Needless to state that the petitioners should be otherwise eligible and fulfill the required criterion for applying and being appointed in the Unarmed Police Constabulary.

3 The petition is disposed of accordingly. Rule made absolute in the aforesaid terms with no order as to costs.

Sd/-
(D.A.Mehta,J)

m.m.bhatt